

REMARKS

Reconsideration of the above-identified patent application is respectfully requested.

Claims 73-74, 82-84, 89 and 91 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,394,744 to James et al. ("James") in view of U.S. Patent Application Pub. No. 2003/0033799 to Scheying and U.S. Patent No. 6,029,044 to Arsenault et al. ("Arsenault"). Claims 75-81 and 85-88 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over James in view of Scheying and Arsenault, and further in view of U.S. Patent No. 5,251,299 to Masuda et al. ("Masuda").

At the outset, applicants have herein amended claim 73 to change "producing" to --produce--. It will be understood that this amendment is made simply to correct a grammatical error, and not for any reason relating to the question of patentability of this or any other pending claim.

As in the previous Office Action, James is cited as disclosing a system in which an averaging filter is used to convert a sensor signal to a filtered value, and Scheying is cited as disclosing a system that determines a quality value based on the concentration of the reagent solution, the temperature of the reagent solution and the amount of reagent solution in the reservoir. Arsenault is cited as disclosing a system that includes two averaging filters. The Examiner has further taken the position that "because the terms 'long run' and 'short-run' are not defined in the specification, and they are not well-established in the art . . . the distinction between a long-run averaging filter and a short-run averaging filter is unclear [and] consequently, any averaging filter can be

deemed a short-run or a long-run averaging filter.” Applicants respectfully traverse this rejection.

Applicants first assert that, contrary to the Examiner’s contention, none of the references of record disclose a system that implements two averaging filters that operate on the same signal or value. Clearly, and as the Examiner admits, neither James nor Scheying disclose two such averaging filters. Moreover, contrary to the Examiner’s position, Arsenault does not disclose two such averaging filters. Arsenault does disclose two filters, but both are clearly conventional band-pass filters and not averaging filters. For example, at col. 4, lines 36-38, Arsenault discloses that the filter 57 “passes only signal or service frequencies corresponding to a range of a known service band or channel in the service spectrum” (emphasis added). At col. 4, lines 45-47, Arsenault similarly discloses that the filter 58 “passes a range of noise frequencies corresponding to a known region in the received spectrum where no service band or channel is present” (emphasis added). In contrast, an averaging filter is generally understood to produce as an output an average of its input signal. The filters 57 and 58 are conventional band-pass filters; one to pass a band or range of signal frequencies and the other to pass a band or region in the received spectrum where no service band is present, and therefore neither can be averaging filters, as the term averaging filter is generally understood. The Examiner has thus failed to make a *prima facie* case of obviousness under 35 U.S.C. § 103(a), and withdrawal of the § 103(a) rejection of claims 73-74, 82-84, 89 and 91 is therefore respectfully requested.

Applicants further assert that the limitations “long run” and “short run” recited in applicants’ claim 73 must be properly taken into account in any further examination of

the currently pending claims. These terms cannot be simply ignored as the Examiner apparently wishes to do just because these terms are not explicitly defined in applicants' specification. A written description need only clearly define a claim term when that term is specifically intended to have a meaning that is contrary to its ordinary meaning. MPEP §706.03(d). "During examination the USPTO must give claims their broadest reasonable interpretation in light of the specification. This means that the words of the claim must be given their plain meaning unless the plain meaning is inconsistent with the specification. Ordinary, simple English words whose meaning is clear and unquestionable, absent any indication that their use in a particular context changes their meaning, are construed to mean exactly what they say" MPEP §2111.01(l).

As stated in their submission accompanying the RCE, the phrases "long run" and "short run" are intended by applicants to have their ordinary meaning, and therefore do not require a specific definition thereof in applicants' specification. "In construing claim terms, the general meanings gleaned from reference sources, such as dictionaries, must always be compared against the use of the terms in context, and the intrinsic record must always be consulted to identify which of the different possible dictionary meanings is most consistent with the use of the words by the inventor" MPEP §2111.01(III). In this case, Webster's New World College Dictionary, Fourth Edition, ©2001 defines the phrase "long run" simply as "extending over a long time," and the phrase "short run" simply as "lasting for a short period of time, short-term." These dictionary definitions are consistent with the use of the phrases "long run" and "short run" in applicants' specification, and using the ordinary meanings of these phrases a person of ordinary skill in the art would thus understand a "long run averaging filter" to

be a filter that averages data over a long time period and a "short run averaging filter" to be a filter that averages data over a short period of time. Applicants assert that the language of claim 73 must be read consistently with these definitions.

Claim 73 is the sole independent claim, and claims 74-91 therefore ultimately depend from claim 73. Claims 74-91 are believed to be patentably distinct from all references of record for the same reasons just given with respect to claim 73.

Claim 73 has been amended herein, and all claim rejections have been traversed. Claims 73-91 are believed to be in condition for allowance, and such action is solicited. The Examiner is cordially invited to contact the undersigned by telephone to discuss any unresolved matters.

Respectfully submitted,



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